

109TH CONGRESS
2D SESSION

H. R. 5072

To reform the universal service provisions of the Communications Act of 1934, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 30, 2006

Mr. TERRY (for himself and Mr. BOUCHER) introduced the following bill;
which was referred to the Committee on Energy and Commerce

A BILL

To reform the universal service provisions of the
Communications Act of 1934, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Universal Service Re-
5 form Act of 2006”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—The Congress finds the following:

8 (1) The current State and Federal mechanisms
9 used to collect and distribute universal service sup-

1 port are not sustainable in a competitive and rapidly
2 changing technological environment.

3 (2) Voice-over-Internet-Protocol, wireless voice
4 services, and popular flat rate, all-distance pricing
5 plans for voice services have rendered meaningless
6 the distinctions between and among interstate tele-
7 communications and information services, and be-
8 tween and among intrastate telecommunications
9 services and information services, thus making uni-
10 versal service support mechanisms based upon such
11 jurisdictional concepts unsustainable.

12 (3) Providing unlimited universal service sup-
13 port to multiple competing telecommunications car-
14 riers in the same service area results in an excessive
15 demand for universal service support.

16 (4) Implicit support mechanisms were the uni-
17 versal service support mechanisms of choice for
18 State commissions and during the natural monopoly
19 era that preceded the Telecommunications Act of
20 1996. Implicit support mechanisms are effective in
21 monopoly environments; however, they are incon-
22 sistent with the competitive environment fostered by
23 the 1996 Act, and they should be eliminated.

24 (5) The Commission was required by the Tele-
25 communications Act of 1996 to make all Federal

1 universal service support mechanisms explicit. Ex-
2 plicit universal service support mechanisms are ap-
3 propriate in the competitive telecommunications
4 marketplace of the 21st century.

5 (6) Universal service support mechanisms
6 should preserve incentives for continued investment
7 in and enhancements to the public switched tele-
8 phone network and to increase the availability of
9 broadband services.

10 (7) Maintaining predictable, sufficient, and sus-
11 tainable universal service support will require that
12 support be collected from a broad base of service
13 providers and in a more competitively and tech-
14 nology neutral manner.

15 (8) The aggregate amount of universal service
16 support is increasing annually and as a result, tele-
17 communications carriers have had to pay an in-
18 creased percentage of their total revenues to support
19 universal service support mechanisms. By law, tele-
20 communications carriers may pass through these
21 costs to their subscribers, increasing the amount
22 consumers are required to pay to maintain the con-
23 tinued growth of universal service support.

24 (9) Federal universal service support mecha-
25 nisms have succeeded in bringing quality and afford-

1 able telecommunications services to rural areas that
2 are reasonably comparable to those in urban areas.
3 Existing Federal universal service support mecha-
4 nisms have helped to bring telecommunications serv-
5 ices to approximately 95 percent of United States
6 households.

7 (b) PURPOSES.—The purposes of this Act are to re-
8 form State and Federal universal service support contribu-
9 tion and distribution mechanisms by—

10 (1) targeting universal service support specifi-
11 cally to eligible telecommunications carriers in high-
12 cost geographic areas to ensure that communications
13 services and high-speed broadband services are made
14 available throughout all of the States of the United
15 States in a fair and equitable manner;

16 (2) constraining the growth of universal service
17 support by extending the current cap on the portion
18 of the high cost loop support mechanism that is dis-
19 tributed to rural incumbent local exchange carrier
20 study areas to all eligible telecommunications car-
21 riers receiving support from the high cost support
22 mechanism;

23 (3) ensuring universal service support contribu-
24 tions are assessed fairly, equitably, and in a competi-
25 tively neutral manner by means of a contribution as-

1 assessment methodology determined by the Federal
2 Communications Commission applicable to any enti-
3 ty that currently contributes to universal service
4 support, provides real-time voice communications,
5 over any platform, in which the voice component is
6 the primary function, or offers a connection to the
7 network over any platform;

8 (4) strengthening the criteria for eligible recipi-
9 ents of universal service support; and

10 (5) ensuring that the United States becomes a
11 world leader in broadband deployment by making
12 high-speed broadband services and facilities eligible
13 for universal service support.

14 **SEC. 3. DEFINITIONS.**

15 Section 3(a) of the Communications Act of 1934 (47
16 U.S.C. 153(a)) is amended—

17 (1) by redesignating paragraphs (20) through
18 (52) as paragraphs (22) through (54);

19 (2) by redesignating paragraphs (11) through
20 (19) as paragraphs (12) through (20), respectively;

21 (3) by inserting after paragraph (10) the fol-
22 lowing new paragraph:

23 “(11) COMMUNICATIONS SERVICE PROVIDER.—

24 The term ‘communications service provider’ means
25 any entity that—

1 “(A) contributes to or receives universal
2 service support for the most recent calendar
3 quarter ending before the date of enactment of
4 the Universal Service Reform Act of 2006;

5 “(B) uses telephone numbers or Internet
6 protocol addresses, or their functional equiva-
7 lents or successors, to offer a service or a capa-
8 bility—

9 “(i) that provides or enables real-time
10 2-way voice communications; and

11 “(ii) in which the voice component is
12 the primary function; or

13 “(C) offers for a fee, directly to the public,
14 or to such classes of users as to be effectively
15 available directly to the public, a physical trans-
16 mission facility, whether circuit-switched, pack-
17 et-switched, a leased line, or using radio fre-
18 quency transmissions, regardless of the form,
19 protocol, or statutory classification of the serv-
20 ice, that allows an end user to obtain access,
21 from a particular end user location, to a net-
22 work that permits the end user to engage in
23 electronic communications (including tele-
24 communications) with the public.”; and

1 (4) by inserting after paragraph (20) (as redes-
2 ignated by paragraph (2) of this section) the fol-
3 lowing new paragraph:

4 “(21) HIGH-SPEED BROADBAND SERVICE.—

5 “(A) DEFINITION.—The term ‘high-speed
6 broadband service’ means a two way network
7 that uses the Internet protocol or a successor
8 protocol, and the associated capabilities and
9 functionalities, services, and applications pro-
10 vided over an Internet protocol platform or for
11 which an Internet protocol capability is an inte-
12 gral component, and services, facilities, equip-
13 ment, and applications that enable an end-user
14 to receive communications in Internet protocol
15 format, regardless of whether the communica-
16 tions are voice, data, video, or any other form,
17 at a download receiving rate not lower than 1
18 megabit per second.

19 “(B) COMMISSION SPEED ADJUSTMENT
20 REQUIREMENTS.—The Commission shall review
21 the speed requirement in subparagraph (A)
22 every other year beginning the sixth year after
23 implementation of the Universal Service Reform
24 Act of 2006 and shall make the necessary ad-
25 justments to move to higher speeds as deploy-

1 ment and advancement of new technology al-
 2 lows communications service providers to pro-
 3 vide higher speed broadband to end users in an
 4 economically efficient manner.

5 “(C) INTERNET PROTOCOL.—The term
 6 ‘Internet protocol’ means the Transmission
 7 Control Protocol/Internet Protocol, or any pred-
 8 ecessor or successor protocols to such pro-
 9 tocol.”.

10 **SEC. 4. UNIVERSAL SERVICE REFORM.**

11 (a) IN GENERAL.—Section 254 of the Communica-
 12 tions Act of 1934 (47 U.S.C. 254) is amended by amend-
 13 ing subsections (a) through (e) to read as follows:

14 “(a) PROCEDURES TO REFORM UNIVERSAL SERV-
 15 ICE.—

16 “(1) FEDERAL-STATE JOINT BOARD ON UNI-
 17 VERSAL SERVICE.—Within one month after the date
 18 of enactment of the Universal Service Reform Act of
 19 2006, the Commission shall institute and refer to
 20 the Federal-State Joint Board under section 410(c)
 21 of this title a proceeding to recommend changes to
 22 any of its regulations in order to implement section
 23 214(e) of this title and this section (as amended by
 24 the Universal Service Reform Act of 2006), includ-
 25 ing the definition of the services that are supported

1 by Federal universal service support mechanisms
2 and a specific timetable for completion of such rec-
3 ommendations. In addition to the members of the
4 Joint Board required under section 410(c) of this
5 title, one member of such Joint Board shall be a
6 State-appointed utility consumer advocate nominated
7 by a national organization of State utility consumer
8 advocates. The Joint Board shall, after notice and
9 opportunity for public comment, make its rec-
10 ommendations to the Commission 9 months after
11 the date of enactment of the Universal Service Re-
12 form Act of 2006.

13 “(2) COMMISSION ACTION.—The Commission
14 shall initiate a single proceeding to consider the rec-
15 ommendations from the Joint Board required by
16 paragraph (1) and shall complete such proceeding
17 within 18 months after the date of enactment of the
18 Universal Service Reform Act of 2006. The rules es-
19 tablished by such proceeding shall include a defini-
20 tion of the services that are supported by Federal
21 universal service support mechanisms and a specific
22 timetable for implementation.

23 “(b) UNIVERSAL SERVICE PRINCIPLES.—The Joint
24 Board and the Commission shall base policies for the pres-

1 ervation and advancement of universal service on the fol-
2 lowing principles:

3 “(1) QUALITY AND RATES.—Quality services
4 should be available at just, reasonable, and afford-
5 able rates.

6 “(2) ACCESS TO ADVANCED SERVICES.—Access
7 to advanced telecommunications and information
8 services should be provided in all regions of the Na-
9 tion.

10 “(3) ACCESS IN RURAL AND HIGH COST
11 AREAS.—Consumers in all regions of the Nation, in-
12 cluding low-income consumers and those in rural, in-
13 sular, and high cost areas, should have access to the
14 services the Commission determines to be universal
15 services in accordance with subsection (c), including
16 advanced telecommunications and information serv-
17 ices, that are reasonably comparable to those serv-
18 ices provided in urban areas and that are available
19 at rates that are reasonably comparable to rates
20 charged for similar services in urban areas.

21 “(4) EQUITABLE AND NONDISCRIMINATORY
22 CONTRIBUTIONS.—All communications service pro-
23 viders should make equitable and nondiscriminatory
24 contributions to the preservation and advancement
25 of universal service.

1 “(5) SPECIFIC AND PREDICTABLE SUPPORT
2 MECHANISMS.—There should be specific, predictable
3 and sufficient Federal and State mechanisms to pre-
4 serve and advance universal service.

5 “(6) ACCESS TO ADVANCED TELECOMMUNI-
6 CATIONS SERVICES FOR SCHOOLS, HEALTH CARE,
7 AND LIBRARIES.—Elementary and secondary schools
8 and classrooms, health care providers, and libraries
9 should have access to advanced telecommunications
10 services as described in subsection (h).

11 “(7) ADDITIONAL PRINCIPLES.—Such other
12 principles as the Joint Board and the Commission
13 determine are necessary and appropriate for the pro-
14 tection of the public interest, convenience, and ne-
15 cessity and are consistent with this Act.

16 “(c) DEFINITION.—

17 “(1) IN GENERAL.—Universal service includes
18 the services defined on the date of enactment of the
19 Universal Service Reform Act of 2006 as universal
20 services, high-speed broadband services, and an
21 evolving level of telecommunications and information
22 services that the Commission shall establish periodi-
23 cally under this section, taking into account ad-
24 vances in telecommunications and information tech-
25 nologies and services. The Joint Board in recom-

1 mending, and the Commission in establishing, the
2 definition of the services that are supported by Fed-
3 eral universal service support mechanisms shall con-
4 sider the extent to which such services—

5 “(A) are essential to education, public
6 health, or public safety;

7 “(B) are being deployed in public tele-
8 communications networks by communications
9 service providers; and

10 “(C) are consistent with the public inter-
11 est, convenience, and necessity.

12 “(2) ALTERATIONS AND MODIFICATIONS.—The
13 Joint Board shall consider whether to recommend to
14 the Commission modifications in the definition of
15 the services that are supported by Federal universal
16 service support mechanisms no less than once every
17 5 years.

18 “(3) SPECIAL SERVICES.—In addition to the
19 services included in the definition of universal serv-
20 ice under paragraph (1), the Commission may des-
21 ignate additional services for such support mecha-
22 nisms for schools, libraries, and health care pro-
23 viders for the purposes of subsection (h).

24 “(4) HIGH-SPEED BROADBAND SERVICE.—The
25 definition of universal service shall not be construed

1 to exclude eligible communications service providers
2 from using universal service funding for the provi-
3 sion, maintenance, and upgrading of high-speed
4 broadband service.

5 “(d) UNIVERSAL SERVICE SUPPORT CONTRIBU-
6 TIONS.—

7 “(1) CALCULATING UNIVERSAL SERVICE SUP-
8 PORT CONTRIBUTIONS.—

9 “(A) IN GENERAL.—The Commission shall
10 assess contributions to universal service support
11 mechanisms from communications service pro-
12 viders. The Commission shall assess such con-
13 tributions in a manner that is equitable and
14 competitively neutral, is nondiscriminatory in
15 nature, and ensures that communications serv-
16 ice providers are subject to similar obligations.
17 The Commission may employ any methodology
18 to assess such contributions, including consider-
19 ation of—

20 “(i) revenues derived from the provi-
21 sion of intrastate, interstate, and foreign
22 communications services by communica-
23 tions service providers;

24 “(ii) working telephone numbers used
25 by communications service providers; or

1 “(iii) any other current or successor
2 identifier protocols or connections to the
3 network used by communications service
4 providers.

5 “(B) USE OF MORE THAN ONE METHODOLOGY.—If no one methodology designated
6 under subparagraph (A) effectuates the principles described in this Act, the Commission
7 may employ a combination of any such methodologies.
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11 “(C) LOW VOLUME EXCEPTION.—The
12 Commission may limit the contributions of communications service providers whose customers
13 typically make a low volume of calls on a monthly basis.
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16 “(D) DE MINIMIS EXCEPTION.—The Commission may exempt a communications service
17 provider from the requirements of this subsection if the communications activities of such
18 provider are limited to such an extent that the level of contributions of such provider to the
19 preservation and advancement of universal service would be de minimis.
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24 “(2) REPORTS.—The Commission shall establish annual reporting requirements for all commu-
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1 nications service providers contributing to universal
2 service support mechanisms or receiving universal
3 service support. The reporting requirements shall
4 not impose unnecessary burdens, and shall be tech-
5 nology and provider neutral. The Commission shall
6 periodically review the reporting requirements to en-
7 sure that universal service support is used for the
8 provision, maintenance, and upgrading of the facili-
9 ties for which support is intended.

10 “(3) UNIVERSAL SERVICE SUPPORT CONTRIBU-
11 TION LIMITS.—

12 “(A) LIMITATION.—The total amount of
13 universal service support for all universal serv-
14 ice support mechanisms other than support for
15 schools, libraries, rural health care, life-line,
16 link-up, and toll limitation shall not exceed the
17 total amount that was collected from all sources
18 for all universal service support mechanisms
19 other than schools, libraries, rural health care,
20 life-line, link-up, and toll limitation in the last
21 year prior to the date of enactment of the Uni-
22 versal Service Reform Act of 2006, as adjusted
23 annually by a growth factor and once, within
24 one year of the date of enactment of the Uni-
25 versal Service Reform Act of 2006, by the

1 amounts that the adjustments in subsections
2 (e)(3) and (m) increase demand for universal
3 service support.

4 “(B) GROWTH FACTOR.—The growth fac-
5 tor shall be the annual percentage change in
6 the Gross Domestic Product–Chained Price
7 Index (GDP–CPI), or any successor general in-
8 flationary factor that the Bureau of Economic
9 Analysis of the Department of Commerce deter-
10 mines shall supersede such index, plus the an-
11 nual percentage change in the total number of
12 rural incumbent local exchange carrier working
13 loops, if that percentage change is greater than
14 zero.

15 “(C) INTERCARRIER COMPENSATION RE-
16 COVERY MECHANISM.—If at any time after the
17 date of enactment of the Universal Service Re-
18 form Act of 2006 the Commission mandates
19 that intercarrier compensation revenues be re-
20 covered through an alternative revenue recovery
21 mechanism, such alternative revenue recovery
22 mechanism shall be included in the limitation
23 set forth in subparagraph (A), and the Commis-
24 sion shall adjust such limitation once, within 3
25 months of mandating that intercarrier com-

1 pensation revenues be recovered through an al-
 2 ternative revenue recovery mechanism, by the
 3 amount that such revenue recovery mechanism
 4 increases demand for universal service support.

5 “(e) DISTRIBUTION AND USE OF UNIVERSAL SERV-
 6 ICE SUPPORT.—

7 “(1) IN GENERAL.—Only an eligible tele-
 8 communications carrier designated under section
 9 214(e) shall be eligible to receive specific Federal
 10 universal service support. A carrier that receives
 11 such support shall use that support only for the pro-
 12 vision, maintenance, and upgrading of facilities and
 13 services for which the support is intended. Any such
 14 support should be explicit and sufficient to achieve
 15 the purposes of this section.

16 “(2) USES OF UNIVERSAL SERVICE SUPPORT.—
 17 The use of universal service support for all rural, in-
 18 sular, and high cost areas—

19 “(A) should be expanded to include high-
 20 speed broadband services;

21 “(B) should be based on actual costs rea-
 22 sonably incurred in providing such services, ex-
 23 clusive of the cost of acquiring spectrum, except
 24 that an eligible telecommunications carrier that
 25 is an incumbent local exchange carrier may

1 elect to have the Commission calculate the
2 amount of universal service support payable to
3 such carrier pursuant to section 54.309 of title
4 47, Code of Federal Regulations (as in effect on
5 the date of the enactment of the Universal
6 Service Reform Act of 2006); and

7 “(C) should be available to communica-
8 tions service providers that are determined to
9 be eligible telecommunications carriers under
10 section 214(e).

11 “(3) SUPPORT FOR NON-RURAL CARRIERS PRO-
12 VIDING SERVICE IN RURAL, INSULAR, AND HIGH
13 COST AREAS.—

14 “(A) CALCULATING SUPPORT.—Except
15 with respect to non-rural carriers serving insu-
16 lar areas, in calculating Federal universal serv-
17 ice support for eligible telecommunications car-
18 riers that serve rural, insular, and high cost
19 areas and that are not rural telephone compa-
20 nies, the Commission shall, subject to the provi-
21 sions of subparagraph (B), revise the Commis-
22 sion’s support mechanism for rural, insular,
23 and high cost areas to provide support to each
24 wire center in which the incumbent local ex-
25 change carrier’s average cost per line for such

1 wire center exceeds 3.75 times the national av-
2 erage cost per line.

3 “(B) HOLD HARMLESS.—In implementing
4 this paragraph, the Commission shall ensure
5 that no non-rural carrier receives less Federal
6 support calculated under paragraph (1) than
7 the non-rural carrier would have received under
8 the Commission’s support mechanism for rural,
9 insular, and high cost areas as in effect on the
10 day before the date of the enactment of the
11 Universal Service Reform Act of 2006.

12 “(4) ADMINISTRATION: ACCOUNTABILITY
13 STANDARDS.—

14 “(A) NETWORK TRAFFIC IDENTIFICATION
15 ACCOUNTABILITY STANDARDS.—

16 “(i) NETWORK TRAFFIC IDENTIFICA-
17 TION STANDARDS.—Communications serv-
18 ice providers shall ensure that all traffic
19 that originates on their networks contains
20 sufficient information to allow for traffic
21 identification by other communications
22 service providers that transport, transit, or
23 terminate such traffic, including informa-
24 tion on the identity of the originating pro-
25 vider, the calling and called parties, and

1 the jurisdiction in which the traffic origi-
2 nates.

3 “(ii) NETWORK TRAFFIC IDENTIFICA-
4 TION RULEMAKING.—The Commission, in
5 consultation with the States, shall initiate
6 a single rulemaking no later than 180 days
7 after the date of enactment of the Uni-
8 versal Service Reform Act of 2006 to es-
9 tablish rules and enforcement provisions
10 for traffic identification. Such rules shall
11 include mandatory requirements for identi-
12 fication of all traffic by the originating
13 provider and shall require that such traffic
14 identification information is transferred to
15 transporting, transiting, and terminating
16 providers unchanged and unaltered. The
17 rules shall also establish procedures for
18 carriers to contest insufficiently labeled
19 traffic in a prompt manner and shall es-
20 tablish appropriate enforcement and pen-
21 alty provisions for carriers that insuffi-
22 ciently label traffic. The processes to adju-
23 dicate insufficiently labeled traffic shall re-
24 quire the relevant providers to demonstrate

1 their compliance with the Commission’s
2 traffic labeling standards.

3 “(iii) NETWORK TRAFFIC IDENTIFICA-
4 TION ENFORCEMENT.—The Commission
5 shall adopt clear penalties, fines, and sanc-
6 tions for insufficiently labeled traffic. The
7 penalties, fines, and sanctions established
8 by the Commission shall provide—

9 “(I) adequate retroactive mone-
10 tary reimbursement to the defrauded
11 provider or providers equal to the rate
12 differential between accurately and in-
13 accurately labeled traffic;

14 “(II) monetary fines determined
15 by the Commission;

16 “(III) a deterrence penalty for
17 those offenders who do not resolve
18 their violations or remit the required
19 reimbursements to defrauded provider
20 or providers;

21 “(IV) an adequate deterrence
22 penalty against frivolous accusations;

23 “(V) the ability of network traffic
24 operators to block inaccurately labeled
25 traffic;

1 “(VI) the decertification of re-
 2 peat offenders or those providers un-
 3 willing to comply with the established
 4 rules and penalties; and

5 “(VII) specific and clear time
 6 frames for the investigation and sub-
 7 sequent penalty, fines, and sanctions
 8 of offending providers, to ensure prop-
 9 er accountability.

10 “(iv) ACCOUNTABILITY FOR NETWORK
 11 TRAFFIC EXCHANGE.—To ensure that all
 12 communications service providers are ac-
 13 countable for the volume of traffic the pro-
 14 viders terminate on other carriers’ net-
 15 works, the Commission shall ensure that
 16 all providers are compensated for the use
 17 of their networks by other providers.

18 “(B) UNIVERSAL SERVICE DISTRIBUTION
 19 ACCOUNTABILITY STANDARDS.—To ensure fair-
 20 ness and accountability in the distribution of
 21 universal service funding contributions, the
 22 Commission shall promulgate rules to calculate
 23 the level of universal service support to be dis-
 24 tributed to all eligible recipients.”.

25 (b) RURAL HEALTH CARE SUPPORT MECHANISMS.—

1 (1) AMENDMENT.—Subparagraph (A) of sec-
2 tion 254(h)(1) of the Communications Act of 1934
3 (47 U.S.C. 254(h)(1)) is amended to read as follows:

4 “(A) HEALTH CARE SERVICES FOR RURAL
5 AREAS.—Within 180 days after the date of en-
6 actment of the Universal Service Reform Act of
7 2006, the Commission shall prescribe regula-
8 tions that provide that a communications serv-
9 ice provider shall, upon, receiving a bona fide
10 request, provide covered services which are nec-
11 essary for the provision of health care services
12 in a State, including instruction relating to
13 such services, to any public or nonprofit health
14 care provider that serves persons who reside in
15 rural areas in that State at rates that are rea-
16 sonably comparable to rates charged for similar
17 services in urban areas in that State. A commu-
18 nications service provider providing service
19 under this subparagraph shall be entitled to
20 have an amount equal to the difference, if any,
21 between the rates for services provided to health
22 care providers for rural areas in a State and
23 the rates for similar services in urban areas in
24 that State treated as a service obligation as a
25 part of its obligation to participate in the mech-

1 anisms to preserve and advance universal serv-
2 ice.”.

3 (2) DEFINITION OF HEALTH CARE PRO-
4 VIDER.—Subparagraph (B) of section 254(h)(7) of
5 such Act (47 U.S.C. 254(h)(7)(B)) is amended to
6 read as follows:

7 “(B) HEALTH CARE PROVIDER.—The term
8 ‘health care provider’ means—

9 “(i) post-secondary educational insti-
10 tutions offering health care instruction,
11 teaching hospitals, and medical schools;

12 “(ii) community health centers or
13 health centers providing health care to mi-
14 grants;

15 “(iii) local health departments or
16 agencies;

17 “(iv) community mental health cen-
18 ters;

19 “(v) not-for-profit hospitals;

20 “(vi) critical access hospitals;

21 “(vii) rural hospitals with emergency
22 rooms;

23 “(viii) rural health clinics;

24 “(ix) not-for-profit nursing homes or
25 skilled nursing homes;

- 1 “(x) hospice providers;
- 2 “(xi) emergency medical services fa-
- 3 cilities;
- 4 “(xii) rural dialysis facilities;
- 5 “(xiii) elementary, secondary, and
- 6 post-secondary school health clinics; and
- 7 “(xiv) consortia of health care pro-
- 8 viders consisting of one or more entities
- 9 described in clauses (i) through (xiii).”.

10 (3) DEFINITION OF RURAL FOR HEALTH CARE
 11 SUPPORT.—Section 254(h)(7) of such Act is further
 12 amended by adding at the end the following new
 13 subparagraph:

14 “(J) RURAL AREA.—Within 180 days after
 15 the date of enactment of the Universal Service
 16 Reform Act of 2006, the Commission shall pre-
 17 scribe regulations that provide that, for pur-
 18 poses of the rural health care universal service
 19 support mechanisms established pursuant to
 20 this subsection, a ‘rural area’ is—

21 “(i) any incorporated or unincor-
 22 porated place in the United States, its ter-
 23 ritories and insular possessions (including
 24 any area within the Federated States of
 25 Micronesia, the Republic of the Marshall

1 Islands and the Republic of Palau) that
 2 has no more than 20,000 inhabitants
 3 based on the most recent available popu-
 4 lation statistics from the Census Bureau;

5 “(ii) any area located outside of the
 6 boundaries of any incorporated or unincor-
 7 porated city, village, or borough having a
 8 population exceeding 20,000;

9 “(iii) any area with a population den-
 10 sity of fewer than 250 persons per square
 11 mile; or

12 “(iv) any place that qualified as a
 13 ‘rural area’ and received support from the
 14 rural health care support mechanism pur-
 15 suant to the Commission’s rules in effect
 16 prior to December 1, 2004, and that con-
 17 tinues to qualify as a ‘rural area’ pursuant
 18 to such rules.”.

19 (c) SCHOOLS, LIBRARIES, RURAL HEALTH CARE,
 20 LIFE-LINE, LINK-UP, AND TOLL LIMITATION HOLD
 21 HARMLESS.—Except as provided in subsections (h)(1)(A),
 22 (h)(7)(B), and (h)(7)(J) of section 254 of the Communica-
 23 tions Act of 1934 (47 U.S.C. 254), as amended by sub-
 24 section (b)—

1 (1) nothing in this Act (and the amendments
2 made by this Act) shall be construed as limiting,
3 changing, modifying, or altering the amount of sup-
4 port or means of distribution for the schools, librar-
5 ies, rural health care, life-line, link-up, and toll limi-
6 tation programs; and

7 (2) the Federal Communications Commission
8 shall ensure that such amendments do not result in
9 a decrease of such support to a level below the level
10 for the fiscal year preceding the fiscal year in which
11 this Act is enacted.

12 **SEC. 5. ELIGIBLE RECIPIENTS OF UNIVERSAL SERVICE**
13 **SUPPORT.**

14 (a) AMENDMENT.—Section 214(e) of the Commu-
15 nications Act of 1934 (47 U.S.C. 214(e)) is amended—

16 (1) by redesignating paragraphs (3), (4), (5),
17 and (6) as paragraphs (6), (7), (9), and (8), respec-
18 tively, and reordering such paragraphs in numerical
19 order; and

20 (2) by striking paragraphs (1) and (2) and in-
21 serting the following:

22 “(1) ELIGIBILITY TO RECEIVE UNIVERSAL
23 SERVICE SUPPORT.—A communications service pro-
24 vider shall be eligible to receive universal service
25 support in accordance with the requirements of this

1 subsection only if such communications service pro-
2 vider—

3 “(A) uses its own facilities to make avail-
4 able in a service area the services that have
5 been determined by the Commission to be uni-
6 versal services pursuant to section 254(c), and
7 responds to reasonable requests for service from
8 persons located anywhere in such service area
9 consistent with carrier-of-last-resort require-
10 ments in the State in which the requesting per-
11 son is located;

12 “(B) advertises the supported services and
13 their associated charges throughout the service
14 area using media of general distribution, and
15 advertises the availability of life-line and link-up
16 services in a manner reasonably designed to
17 reach those likely to qualify for those services;

18 “(C) demonstrates the ability to remain
19 functional in emergency situations;

20 “(D) satisfies consumer protection and
21 service quality standards; and

22 “(E) meets the basic requirements for the
23 deployment of high-speed broadband service,
24 and provides high-speed broadband service, ex-

cept that the Commission shall establish a process—

“(i) whereby a determination can be made to waive the requirements of this subparagraph for 3 years upon application of a communications service provider demonstrating that the deployment and provision of high-speed broadband service is not technically feasible or would materially impair the communications service provider’s ability to continue to provide local exchange service throughout its service area, except that a waiver shall be deemed automatically granted under this clause for a communications service provider which can demonstrate that the cost per line of deploying and providing high-speed broadband service is at least three times the average cost of providing high-speed broadband service among all recipients of universal service support, subject to the renewal provisions set forth in clause (ii);

“(ii) whereby the communications service provider may seek renewal of such waiver every 3 years for as long as the de-

1 ployment and provision of high-speed
2 broadband service is not technically fea-
3 sible or would materially impair the com-
4 munications service provider's ability to
5 continue to provide local exchange service
6 throughout its service area; and

7 “(iii) whereby any application of a
8 communications service provider for a
9 waiver pursuant to clause (i) on which the
10 Commission has not taken final action
11 within 60 days of the date of submission to
12 the Commission shall be deemed granted.

13 “(2) ELIGIBILITY CRITERIA.—In addition to the
14 criteria specified in paragraph (1), the Commission
15 shall establish such additional eligibility criteria for
16 the receipt of universal service support by commu-
17 nications service providers as it deems necessary and
18 in the public interest. The criteria established in
19 paragraph (1) and the criteria established by the
20 Commission pursuant to this paragraph shall be
21 used by State commissions in determining which
22 providers shall be designated as eligible recipients of
23 universal service support for the purpose of para-
24 graph (3).

1 “(3) DESIGNATION OF ELIGIBLE RECIPIENTS.—

2 A State commission shall, upon its own motion or
3 upon request, designate as an eligible recipient of
4 universal service support only those providers meet-
5 ing the requirements of paragraphs (1) and (2).

6 “(4) GRANDFATHER PROVISION.—Recipients of
7 universal service support in any service area prior to
8 the date of enactment of the Universal Service Re-
9 form Act of 2006 shall meet the eligibility require-
10 ments for eligible recipients of universal service sup-
11 port—

12 “(A) as described in paragraphs (1)(A)
13 through (D) within one year of the date of en-
14 actment of the Universal Service Reform Act of
15 2006; and

16 “(B) as described in paragraph (1)(E)
17 within 5 years after the date of enactment of
18 the Universal Service Reform Act of 2006.

19 Failure of such an eligible recipient of universal
20 service support to maintain and meet the eligibility
21 requirements within the period required by subpara-
22 graph (A) or (B) after the date of enactment of the
23 Universal Service Reform Act of 2006 shall require
24 the automatic termination of Federal universal serv-
25 ice support to that recipient. This paragraph shall

1 not be construed to prohibit such a recipient from
2 obtaining a waiver under paragraph (1)(E).

3 “(5) STATE AUTHORITY.—Nothing in this Act
4 or the Universal Service Reform Act of 2006 pre-
5 cludes a State from establishing funding mecha-
6 nisms to preserve and advance universal service
7 within that State pursuant to section 254(f) of this
8 Act.”.

9 (b) DEFINITIONS.—Paragraph (9) of section 214(e)
10 (as redesignated by subsection (a)) is amended to read as
11 follows:

12 “(9) DEFINITIONS.—As used in this subsection,
13 the term ‘service area’ means a geographic area that
14 aligns with the area in which a communications
15 service provider is licensed or authorized to provide
16 service for the purpose of determining universal
17 service obligations and support mechanisms. In the
18 case of an area served by a rural telephone company,
19 ‘service area’ means such company’s ‘study area’ or
20 the licensed or authorized service area of any other
21 communications service provider serving an area
22 that overlaps with the service area of a rural tele-
23 phone company.”.

1 **SEC. 6. REMOVAL OF IMPEDIMENTS TO SUFFICIENT SUP-**
2 **PORT MECHANISMS.**

3 Section 254 of the Communications Act of 1934 is
4 amended by adding at the end the following new sub-
5 section:

6 “(m) REMOVAL OF LIMITATIONS ON HIGH COST
7 SUPPORT MECHANISMS.—The limitations on universal
8 service support contained in section 54.305 of the Com-
9 mission’s regulations (47 C.F.R. 54.305), and the indi-
10 vidual caps imposed upon carriers contained in section
11 36.631 of the Commission’s regulations (47 C.F.R.
12 36.631), shall cease to be effective on the date of enact-
13 ment of the Universal Service Reform Act of 2006. The
14 Commission shall not, on or after such date of enactment,
15 enforce or reimpose limitations on support mechanisms for
16 rural telephone companies or exchanges they acquire
17 based on fund size or other considerations unrelated to
18 the sufficiency of support to achieve the purposes of this
19 section.”.

20 **SEC. 7. APPLICATION OF ANTIDEFICIENCY ACT.**

21 (a) MAKING ANTIDEFICIENCY ACT EXEMPTION PER-
22 MANENT.—Section 254 of the Communications Act of
23 1934 (47 U.S.C. 254) is amended by adding the following
24 subsection (n):

1 “(n) APPLICATION OF ANTIDEFICIENCY ACT.—Sec-
2 tion 1341 and subchapter II of chapter 15 of title 31,
3 United States Code, do not apply—

4 “(1) to any amount collected or received as
5 Federal universal service contributions required by
6 this section, including any interest earned on such
7 contributions; nor

8 “(2) to the expenditure or obligation of
9 amounts attributable to such contributions for uni-
10 versal service support programs established pursuant
11 to this section.”.

12 (b) INVESTMENT OF UNIVERSAL SERVICE FUND
13 CONTRIBUTIONS.—Notwithstanding any other provision
14 of law, including but not limited to sections 3302, 3321,
15 3322, and 3325 of title 31, United States Code, the cash
16 balance of receipts of universal service contributions col-
17 lected pursuant to section 254 of the Communications Act
18 of 1934 (47 U.S.C. 254) shall be invested by the Commis-
19 sion or its designee in conservative, liquid, interest-bearing
20 investment vehicles of government backed securities until
21 such time as such receipts are disbursed pursuant to sec-
22 tion 254 of the Communications Act of 1934 (47 U.S.C.
23 254).

1 **SEC. 8. SCOPE OF SUPPORT.**

2 The Commission in implementing the requirements of
3 this Act with respect to the distribution and use of Federal
4 universal service support shall not limit such distribution
5 and use to a single connection or primary line, and all
6 residential and business lines served by an eligible tele-
7 communications carrier shall be eligible for Federal uni-
8 versal service support.

9 **SEC. 9. REPORT TO CONGRESS.**

10 The Commission shall, not later than 3 years after
11 the date of enactment of this Act and triennially there-
12 after, report to Congress regarding the availability of the
13 services designated by the Commission as universal serv-
14 ices to all Americans, including schools, libraries, rural
15 health care providers, and low income consumers.

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